

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:12-CR-75-D

UNITED STATES OF AMERICA	)	
	)	
v.	)	<b>ORDER</b>
	)	
PRENTISE JAVAUGHN WILKINS,	)	
	)	
Defendant.	)	

On October 27, 2020, Prentise Javaughn Wilkins (“Wilkins”) filed a motion for home confinement “pursuant to the 5th and 8th Amendments of the U.S. Constitution, that has been compromised due to COVID-19[]” [D.E. 453]. Wilkins’s father has filed a letter in support of the motion [D.E. 466]. As explained below, the court denies Wilkins’s motion.<sup>1</sup>

On November 4, 2013, pursuant to a plea agreement, Wilkins pleaded guilty to two counts of using and carrying a firearm during and in relation to a crime of violence and aiding and abetting, in violation of 18 U.S.C. §§ 924(c)(1)(A) and 2. See Plea Agmt. [D.E. 228]. On July 15, 2014, the court held Wilkins’s sentencing hearing and calculated Wilkins’s advisory guideline range as five years’ imprisonment on count one and a mandatory consecutive 25-year sentence on count two. See [D.E. 327] 5. After granting the government’s downward departure motion and considering all relevant factors under 18 U.S.C. § 3553(a), the arguments of counsel, and Wilkins’s allocution, the court sentenced Wilkins to 276 months’ imprisonment. See id. at 8–12. Wilkins appealed. On May

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<sup>1</sup> On March 5, 2021, the court appointed counsel for Wilkins to determine whether he may qualify to seek a sentence reduction pursuant to the First Step Act [D.E. 465]. This order does not affect that appointment. Cf. United States v. Collington, No. 19-6721, —F.3d—, 2021 WL 1608756, at \*10 (4th Cir. Apr. 26, 2021); United States v. McCoy, 981 F.3d 271, 286 (4th Cir. 2020).

29, 2015, the United States Court of Appeals for the Fourth Circuit enforced the appellate waiver in the plea agreement and dismissed the appeal. See United States v. Wilkins, 604 F. App'x 322, 323 (4th Cir. 2015) (per curiam) (unpublished).

On June 20, 2016, pursuant to 28 U.S.C. § 2255, Wilkins moved to vacate his conviction under 18 U.S.C. § 924(c) following Johnson v. United States, 135 S. Ct. 2551 (2015). See [D.E. 356] 4; [D.E. 414] 1. On November 4, 2016, the court stayed the action [D.E. 383]. On August 13, 2019, the court directed the parties to submit supplemental briefing concerning Wilkins's motion to vacate [D.E. 393]. On September 6, 2019, the court dismissed Wilkins's section 2255 motion and denied a certificate of appealability because Hobbs Act robbery remains a crime of violence under the force clause. See [D.E. 414] 2–3. Wilkins appealed [D.E. 428]. On December 3, 2019, the Fourth Circuit dismissed Wilkins's appeal for failure to prosecute [D.E. 441].

To the extent Wilkins seeks home confinement, “the authority to grant home confinement remains solely with the Attorney General and the [Bureau of Prisons].” United States v. Brummett, No. 20-5626, 2020 WL 5525871, at \*2 (6th Cir. Aug. 19, 2020) (unpublished); see United States v. Caudle, 740 F. App'x 364, 365 (4th Cir. 2018) (per curiam) (unpublished); United States v. McCoy, No. 3:19-CR-00035-KDB-DCK, 2020 WL 5535020, at \*1 (W.D.N.C. Sept. 15, 2020) (unpublished); United States v. Gray, No. 4:12-CR-54-FL-1, 2020 WL 1943476, at \*3 (E.D.N.C. Apr. 22, 2020) (unpublished). To the extent Wilkins claims that his sentence violates the Fifth and Eighth Amendments, a motion for compassionate release or home confinement is not an appropriate vehicle for his Fifth or Eighth Amendment claims. See, e.g., Hill v. McDonough, 547 U.S. 573, 579 (2006); Farabee v. Clarke, 967 F.3d 380, 394–95 & n.10 (4th Cir. 2020); Wilborn v. Mansukhani, 795 F. App'x 157, 163–64 (4th Cir. 2019) (per curiam) (unpublished). Thus, the court denies the motion.

In sum, the court DENIES Wilkins's motion for home confinement or compassionate release [D.E. 453], and DISMISSES Wilkins's constitutional claims challenging his conditions of confinement.

SO ORDERED. This 10 day of May 2021.

  
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JAMES C. DEVER III  
United States District Judge